

AMENDED IN SENATE JULY 8, 2003
AMENDED IN SENATE JUNE 11, 2003
AMENDED IN SENATE MAY 28, 2003
AMENDED IN SENATE MAY 13, 2003
AMENDED IN ASSEMBLY MARCH 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 97

Introduced by Assembly Members Nation, Parra, and Wyland
(Principal coauthor: Senator Denham)
(Coauthors: Assembly Members Benoit, Berg, and Plescia)

January 8, 2003

An act to amend Sections 48209.1, 48209.15, and ~~48209.16~~ of, ~~48209.16, and 56836.155 of, to amend and repeal Section 47612 of,~~ and to repeal Sections 48209.2, 48209.12, 48209.13, and 48209.17 of, the Education Code, relating to ~~school attendance~~ *public schools, making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 97, as amended, Nation. Pupils: attendance alternatives.

(1) *Existing law specifies that a charter school is to be treated as a school district for purposes of the State School Fund, a continuously appropriated fund. These provisions become inoperative on July 1, 2004, and are repealed on January 1, 2005.*

This bill would delete the July 1, 2004, inoperative date and the January 1, 2005, repeal date of those provisions, thereby extending the operation of those provisions indefinitely.

By extending the operation of those provisions indefinitely, the bill would thereby make an appropriation.

(2) Existing law encourages school districts to hold information hearings on their educational programs and authorizes school districts to provide transportation assistance to pupils attending a school pursuant to an agreement for interdistrict attendance and to make information regarding school programs, policies, and procedures available to interested persons upon request.

This bill would delete these provisions.

~~(2)–~~

(3) Existing law requires each person between the ages of 6 and 18 years, not otherwise exempt, to attend the public full-time day school in the district in which their parent or guardian is a resident. Existing law establishes alternatives to this attendance requirement including, but not limited to, interdistrict transfers, which are operative until July 1, 2003, and as of January 1, 2004, are repealed.

This bill would require the school district that has entered into an agreement for the interdistrict attendance of a pupil to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, except as to those pupils who are enrolled in the school district of choice on the effective date of this bill. The bill would prohibit a school district from requiring a pupil attending a school pursuant to an interdistrict agreement to annually reapply for interdistrict attendance in that school district.

This bill would extend the operative date of these attendance alternatives to July 1, 2007, and would extend the repeal date to January 1, 2008.

~~(3)–~~

(4) *Existing law, in order to recognize the distribution of pupils with severe and costly disabilities among special education local plan areas, requires the State Department of Education, in conjunction with the Office of the Legislative Analyst, to calculate an incidence multiplier for each special education local plan area and requires the Department of Finance to approve the final incidence multiplier for each special education local plan area. Existing law requires the Superintendent of Public Instruction to calculate in the 1998–99 fiscal year and each fiscal year thereafter to and including the 2002–03 fiscal year, an*



adjusted entitlement for the incidence of disabilities for each special education local plan area using the incidence multiplier for each special education local plan area, as specified.

This bill would extend the requirement that the superintendent perform that calculation, as specified, through the 2003–04 fiscal year.

(5) This bill would provide that it would become operative only if Senate Bill 140 of 2003–04 Regular Session is chaptered and becomes effective on or before January 1, 2004.

~~(4)~~

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 47612 of the Education Code, as*
2 *amended by Section 1 of Chapter 36 of the Statutes of 2002, is*
3 *amended to read:*

4 47612. (a) A charter school shall be deemed to be under the
5 exclusive control of the officers of the public schools for purposes
6 of Section 8 of Article IX of the California Constitution, with
7 regard to the appropriation of public moneys to be apportioned to
8 any charter school, including, but not limited to, appropriations
9 made for the purposes of this chapter.

10 (b) The average daily attendance in a charter school may not,
11 in any event, be generated by a pupil who is not a California
12 resident. To remain eligible for generating charter school
13 apportionments, a pupil over 19 years of age shall be continuously
14 enrolled in public school and make satisfactory progress towards
15 award of a high school diploma. The State Board of Education
16 shall, on or before January 1, 2000, adopt regulations defining
17 “satisfactory progress.”

18 (c) A charter school shall be deemed to be a “school district”
19 for purposes of Article 1 (commencing with Section 14000) of
20 Chapter 1 of Part 9, Section 41301, Section 41302.5, Article 10
21 (commencing with Section 41850) of Chapter 5 of Part 24, Section
22 47638, and Sections 8 and 8.5 of Article XVI of the California
23 Constitution.

~~(d) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 2. Section 47612, as added by Section 2 of Chapter 36 of the Statutes of 2002, is repealed.

~~47612. (a) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of this chapter.~~

~~(b) The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. The State Board of Education shall, on or before January 1, 2000, adopt regulations defining “satisfactory progress.”~~

~~(c) A charter school shall be deemed to be a “school district” for purposes of Section 41302.5, Article 10 (commencing with Section 41850) of Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.~~

~~(d) This section shall become operative on July 1, 2004.~~

SEC. 3. Section 48209.1 of the Education Code is amended to read:

48209.1. (a) The governing board of any school district may accept interdistrict transfers. A school district that receives an application from a parent or guardian of a pupil for attendance under this article is not required to admit the pupil to its schools. If, however, the governing board elects to accept transfers as authorized under this article, it may, by resolution, elect to accept transfer pupils, determine and adopt the number of transfers it is willing to accept under this article, and ensure that pupils admitted under the policy are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based upon his or her academic or athletic performance. Any pupil accepted for transfer shall be deemed to have fulfilled the requirements of Section 48204.

(b) Either the pupil's school district of residence, upon notification of the pupil's acceptance to the school district of choice pursuant to subdivision (c) of Section 48209.9, or the school district of choice may prohibit the transfer of a pupil under this article or limit the number of pupils so transferred if the governing board of the district determines that the transfer would negatively impact any of the following:

(1) The court-ordered desegregation plan of the district.

(2) The voluntary desegregation plan of the district that meets the criteria of Section 42249.

(3) The racial and ethnic balance of the district.

(c) The school district of residence shall not adopt policies that in any way block or discourage pupils from applying for transfer to another district.

(d) (1) (A) The governing board of any school district that has entered into an agreement for the interdistrict attendance of a pupil pursuant to this article shall allow that pupil to remain continuously enrolled in the school district of choice through the 12th grade if the parent or guardian of the pupil so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (f) of Section 48204.

(B) Subparagraph (A) does not apply to a pupil who is enrolled in the school district of choice on the date the act adding this subdivision to this section becomes effective.

(2) A pupil that is allowed to remain continuously enrolled in the school district of choice pursuant to this subdivision may not be required to reapply for an interdistrict transfer each year.

~~SEC. 2.—~~

SEC. 4. Section 48209.2 of the Education Code is repealed.

~~SEC. 3.—~~

SEC. 5. Section 48209.12 of the Education Code is repealed.

~~SEC. 4.—~~

SEC. 6. Section 48209.13 of the Education Code is repealed.

~~SEC. 5.—~~

SEC. 7. Section 48209.15 of the Education Code is amended to read:

48209.15. It is the intent of the Legislature that every parent in this state be informed of their opportunity for currently existing choice options under this article regardless of ethnicity, primary language, or literacy.

1 ~~SEC. 6.—~~

2 ~~SEC. 8.~~ Section 48209.16 of the Education Code is amended
3 to read:

4 48209.16. This article is inoperative on and after July 1, 2007,
5 and, as of January 1, 2008, is repealed, unless a later enacted
6 statute, which becomes effective on or before January 1, 2008,
7 deletes or extends the dates on which it becomes inoperative and
8 is repealed.

9 ~~SEC. 7.—~~

10 ~~SEC. 9.~~ Section 48209.17 of the Education Code is repealed.

11 ~~SEC. 8.—~~

12 ~~SEC. 10.~~ *Section 56836.155 of the Education Code is*
13 *amended to read:*

14 56836.155. (a) On or before November 2, 1998, the
15 department, in conjunction with the Office of the Legislative
16 Analyst, shall do the following:

17 (1) Calculate an “incidence multiplier” for each special
18 education local plan area using the definition, methodology, and
19 data provided in the final report submitted by the American
20 Institutes for Research pursuant to Section 67 of Chapter 854 of the
21 Statutes of 1997.

22 (2) Submit the incidence multiplier for each special education
23 local plan area and supporting data to the Department of Finance.

24 (b) The Department of Finance shall review the incidence
25 multiplier for each special education local plan area and the
26 supporting data, and report any errors to the department and the
27 Office of the Legislative Analyst for correction.

28 (c) The Department of Finance shall approve the final
29 incidence multiplier for each special education local plan area by
30 November 23, 1998.

31 (d) For the 1998–99 fiscal year and each fiscal year thereafter
32 to and including the ~~2002–03~~ 2003–04 fiscal year, the
33 superintendent shall perform the following calculation to
34 determine each special education local plan area’s adjusted
35 entitlement for the incidence of disabilities:

36 (1) The incidence multiplier for the special education local plan
37 area shall be multiplied by the statewide target amount per unit of
38 average daily attendance for special education local plan areas
39 determined pursuant to Section 56836.11 for the fiscal year in
40 which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the ~~2001–02 and 2002–03 and 2003–04~~ fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, then the special education local plan area ~~shall~~ *may* not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997–98 fiscal year, the superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area ~~shall~~ *may* not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997–98 fiscal year.

(f) On or before March 1, 2003, the Office of the Legislative Analyst, in conjunction with the Department of Finance and the

1 department, shall submit to the Legislature a new study of the
2 incidence multiplier, with recommendations as to the necessity of
3 continuing to adjust the funding formula contained in this chapter
4 for the purposes of this section to the extent that funding is
5 provided for this purpose. The Office of the Legislative Analyst
6 may contract for this study. It is the intent of the Legislature to
7 provide funding for this study in the Budget Act of 2002.

8 *SEC. 11.* This act shall become operative only if Senate Bill
9 140 of the 2003–04 Regular Session is chaptered and becomes
10 effective on or before January 1, 2004.

11 ~~SEC. 9.—~~

12 *SEC. 12.* This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety
14 within the meaning of Article IV of the Constitution and shall go
15 into immediate effect. The facts constituting the necessity are:

16 In order to maintain the status of existing law governing school
17 district attendance, it is necessary that this act take effect
18 immediately.

